

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DES MOINES DIVISION

IN RE:) Bankruptcy No. 09-05327 als7
)
Michael Eugene Gibson and)
Laura Lee Gibson,)
) MOTION FOR RELIEF
Debtors.) FROM AUTOMATIC STAY

COMES NOW Wells Fargo Bank, N.A., by and through its attorneys, Davis, Brown, Koehn, Shors & Roberts, P.C., pursuant to 11 U.S.C. § 362(d) and Bankruptcy Rule 4001(a)(1), and respectfully states to the Court the following in support of its Motion for Relief from Stay:

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. Section 157(b)(2)(G) and 11 U.S.C. Section 362.
2. Michael Eugene Gibson and Laura Lee Gibson ("Debtors") filed a Petition in this Court under Chapter 7 of the United States Bankruptcy Code on or about October 30, 2009. The Debtors listed in their schedules an interest in real property situated in Mohave County, Arizona, locally known as 4145 N. Bluff Road Golden Valley, AZ 86413, and legally described as follows:

Lot 35, Block 2 of SO-HI ESTATES, UNIT 1, FIRST AMENDED, according to the plat thereof recorded April 17, 1964 at Fee No. 133210 in the Office of the Recorder of Mohave County, Arizona.

(hereinafter referred to as the "Property").

3. Wells Fargo Bank, N.A. is the holder of a secured claim against the Property in the principal amount of \$153,804.76, together with accrued interest at the rate of Six and seven eighths percent (6.875%) per annum from and after September 1, 2009 by virtue of the Debtors' making of a Mortgage dated August

11, 2006 and a Mortgage Note of even date. A copy of the Mortgage is attached hereto as Exhibit "A".

4. Wells Fargo Bank, N.A. does not have, and has not been offered, adequate protection for its interest in and to the Property. The Debtors have failed to make their monthly installment payments of \$1,195.23 for October 1, 2009 and thereafter, which together with accrued and unpaid late charges of \$105.10, the attorneys' fees and costs incurred in connection with this Motion, and accruing interest and costs, is a delinquency which constitutes a default under the terms of the Mortgage and Mortgage Note.

5. The Debtors have no equity in the Property and have no prospect for reorganization, as they have filed a petition for liquidation under Chapter 7 of the Bankruptcy Code. On information and belief, Wells Fargo Bank, N.A. asserts that the Property has a value less than the amount of its claim.

6. The Debtors are in arrears on the payments on the mortgage indebtedness that have come due since the date of filing. This post petition delinquency constitutes additional cause for relief from the automatic stay under section 362(d)(1).

7. If Wells Fargo Bank, N.A. is prevented from foreclosing its Mortgage in and to the Property, it will suffer irreparable injury, loss and damage.

8. The Order sustaining this Motion should provide that it is effective immediately upon entry and that the ten-day stay provided for in Bankruptcy Rule 4001(a)(3) shall not apply.

9. The Order sustaining this Motion shall constitute the abandonment of the Property from the Bankruptcy Estate and Wells Fargo Bank, N.A. shall not be obligated to join the Trustee as a defendant in the foreclosure proceeding, if any.

WHEREFORE, Wells Fargo Bank, N.A. respectfully requests that upon final hearing on this Motion for Relief from Stay and pursuant to 11 U.S.C. Section 362(d), the stay be modified, and the Property be deemed abandoned, to permit Wells Fargo Bank, N.A. to foreclose its Mortgage on the Property and for such other and further relief as is just and equitable in the circumstances.

Dated: November 28, 2009.

Respectfully submitted,

/s/ Mark D. Walz
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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing the same in the U.S. Mail, postage per-paid, to their respective mailing addresses disclosed on the pleadings or, in the event the party is represented by counsel, to their counsel; or notice of the filing of this instrument was sent by e-mail, via CM/ECF, to all parties on the service list who have registered to receive service by e mail over CM/ECF, on November 28, 2009.

Signature: s/s Mark D. Walz